



Public Data Presentation for First Offenders and Alternatives to Incarceration Amendment

December, 2016

Overview of Data Presentation

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- Data for offenders potentially impacted by proposed amendment
- Part A: First Offenders
 - Definition of First Offender
 - New Chapter Four guideline at §4C1.1 (First Offenders)
 - Two options
 - Criminal History Sample: Offenders Sentenced in FY14
 - Recidivism of CHC I offenders
 - Federal Offenders Released in CY05
- Part B: Consolidation of Zones B and C in the Sentencing Table
 - Expands Zone B to include offense levels and CHCs currently in Zone C
 - Federal Offenders Sentenced in FY15





Part A: First Offenders

Proposed Amendment Part A First Offenders

§4C1.1 First Offender

(a) A defendant is a first offender if [(1) the defendant did not receive any criminal history points from Chapter Four, Part A, and (2)] the defendant has no prior convictions of any kind.

* * *

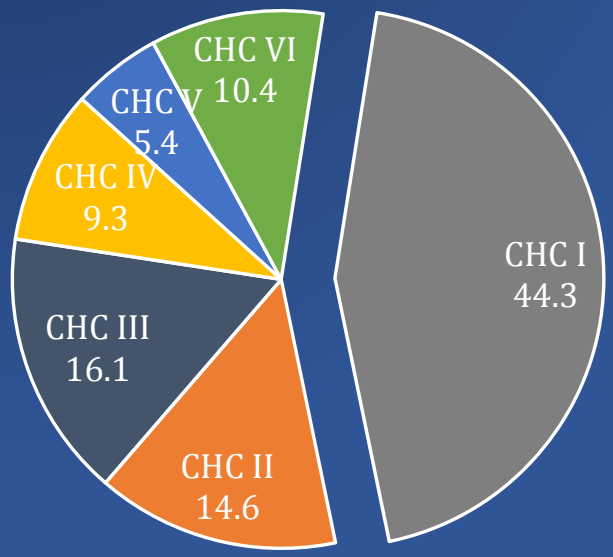


FY14 Criminal History Sample

- Ten percent representative sample
 - Offenders sentenced in FY14
 - Cases randomly sampled from each of 94 federal judicial districts
 - Complete sentencing documentation
- Details of sentencing events from Presentence Reports
 - Number and types of offenses
 - Relevant Chapter 4 provision applied
 - Points assigned under Chapter 4 of the guidelines



Four Categories of CHC I Offenders FY14 Criminal History Sample

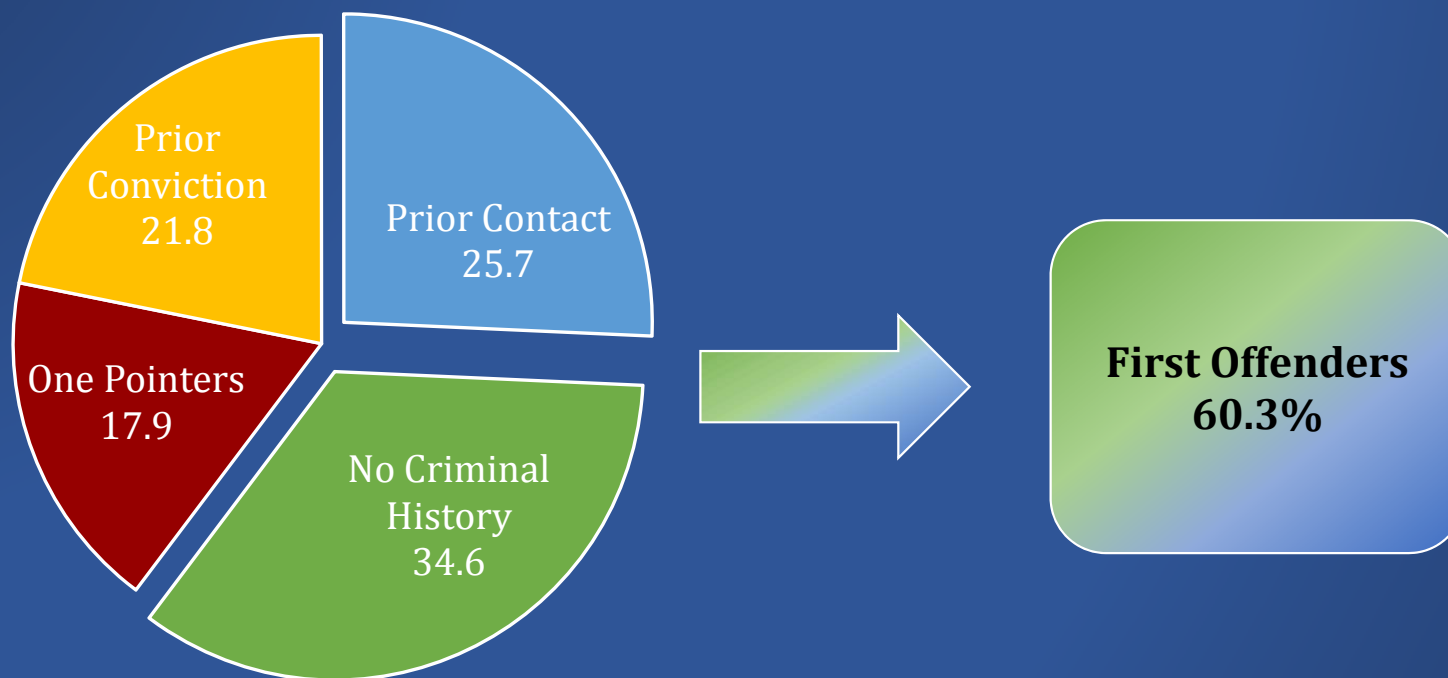


- One Pointers**
 - One criminal history point
- Prior Conviction**
 - Zero criminal history points
 - At least one prior conviction
- Prior Contact**
 - Zero criminal history points
 - No prior convictions
 - Law enforcement contact
- No Criminal History**
 - Zero criminal history points
 - No prior convictions
 - No law enforcement contact

SOURCE: U.S. Sentencing Commission 2014 Criminal History Extraction Datafile. The Criminal History Extraction Datafile consists of a stratified random sample of cases received by the Commission in fiscal year 2014 for which all sentencing documentation was available. Cases were sampled from each of the 94 federal judicial districts that year such that a ten percent sample was randomly selected from each district. Of the 6,764 cases in the sample, a total of 44 were excluded due to insufficient information in the documentation required for analysis.



CHC I Offenders in Each of the Four Categories FY14 Criminal History Sample



SOURCE: U.S. Sentencing Commission 2014 Criminal History Extraction Datafile. The Criminal History Extraction Datafile consists of a stratified random sample of cases received by the Commission in fiscal year 2014 for which all sentencing documentation was available. Cases were sampled from each of the 94 federal judicial districts that year such that a ten percent sample was randomly selected for each district. Of the 6,764 cases in the sample, a total of 44 were excluded due to insufficient information in the documentation required for analysis. A total of 3,746 offenders were excluded who were in CHC II-VI.



Proposed Amendment Part A: First Offenders

§4C1.1 First Offender

(a) A defendant is a first offender if [(1) the defendant did not receive any criminal history points from Chapter Four, Part A, and (2)] the defendant has no prior convictions of any kind.

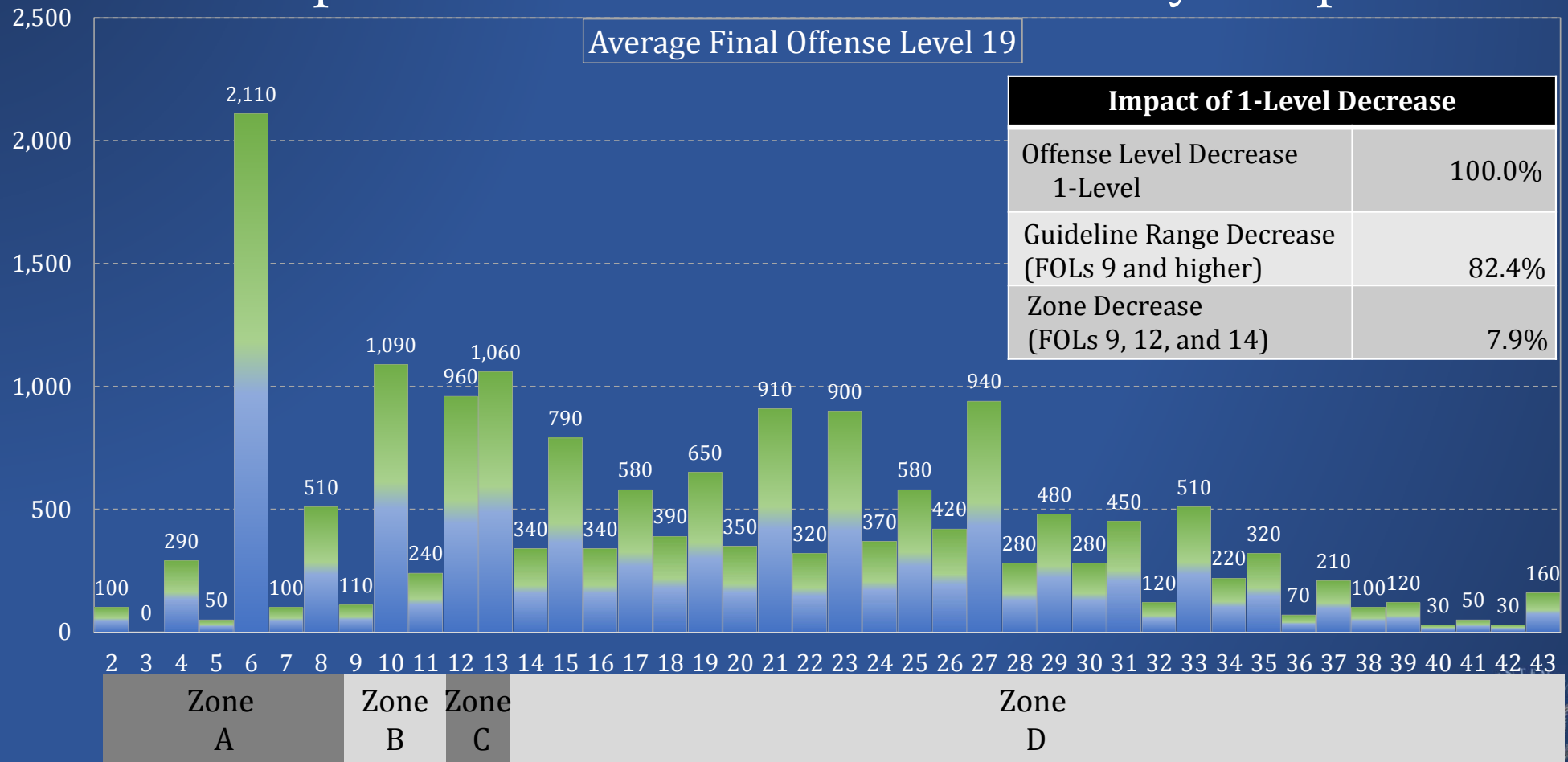
[Option 1:

(b) If the defendant is determined to be a first offender under subsection (a), decrease the offense level determined under Chapters Two and Three by [1] level.]

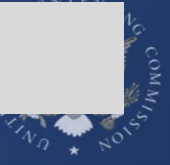
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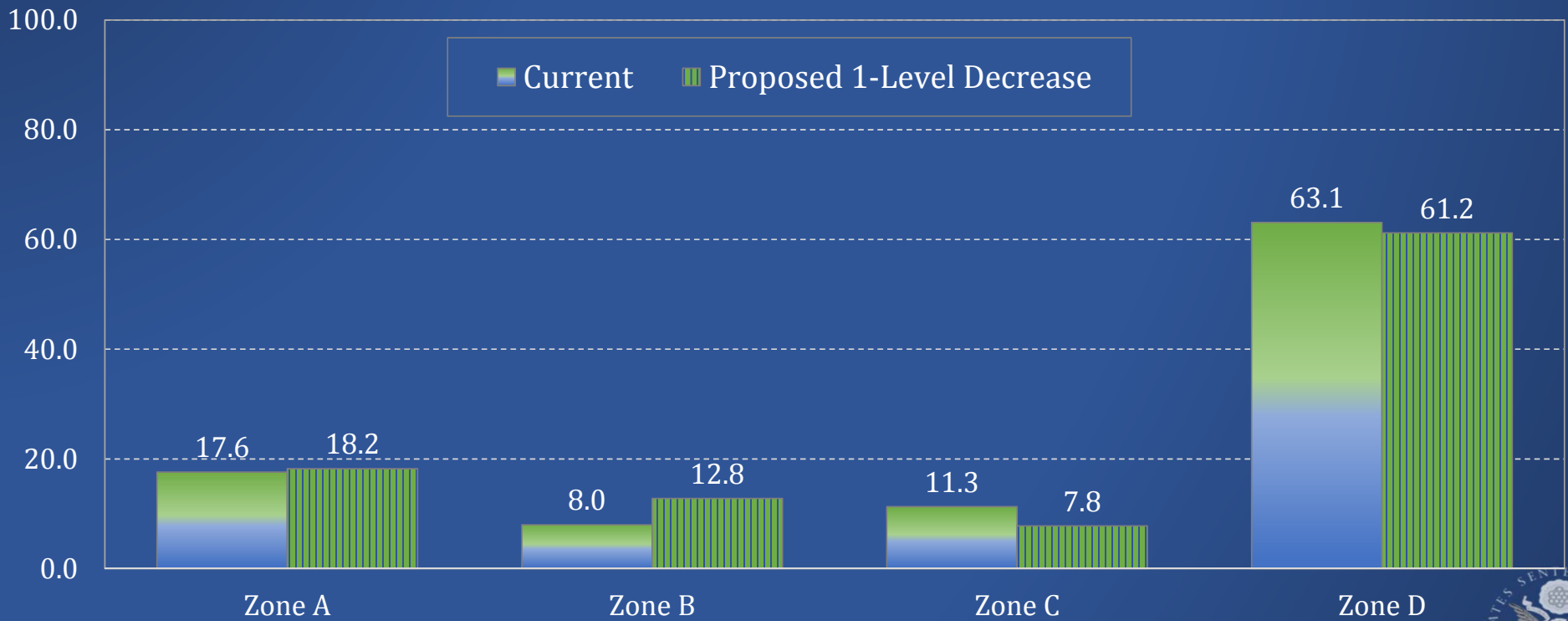
First Offenders in Each Final Offense Level Extrapolated from FY14 Criminal History Sample



SOURCE: U.S. Sentencing Commission 2014 Criminal History Extraction Datafile. The Criminal History Extraction Datafile consists of a stratified random sample of cases received by the Commission in fiscal year 2014 for which all sentencing documentation was available. Cases were sampled from each of the 94 federal judicial districts that year such that a ten percent sample was randomly selected for each district. Of the 6,764 cases in the sample, a total of 44 were excluded due to insufficient information in the documentation required for analysis. A total of 3,746 offenders were excluded who were in CHC II-VI. An additional 1,181 offenders were excluded who had one criminal history point or a prior conviction.



Comparison of Sentencing Table Zones for First Offenders Current and Proposed 1-Level Decrease FY14 Criminal History Sample



SOURCE: U.S. Sentencing Commission 2014 Criminal History Extraction Datafile. The Criminal History Extraction Datafile consists of a stratified random sample of cases received by the Commission in fiscal year 2014 for which all sentencing documentation was available. Cases were sampled from each of the 94 federal judicial districts that year such that a ten percent sample was randomly selected for each district. Of the 6,764 cases in the sample, a total of 44 were excluded due to insufficient information in the documentation required for analysis. A total of 3,746 offenders were excluded who were in CHC II-VI. An additional 1,181 offenders were excluded who had one criminal history point or a prior conviction.

Proposed Amendment Part A First Offenders

§4C1.1 First Offender

(a) A defendant is a first offender if [(1) the defendant did not receive any criminal history points from Chapter Four, Part A, and (2)] the defendant has no prior convictions of any kind.

* * *

[Option 2:

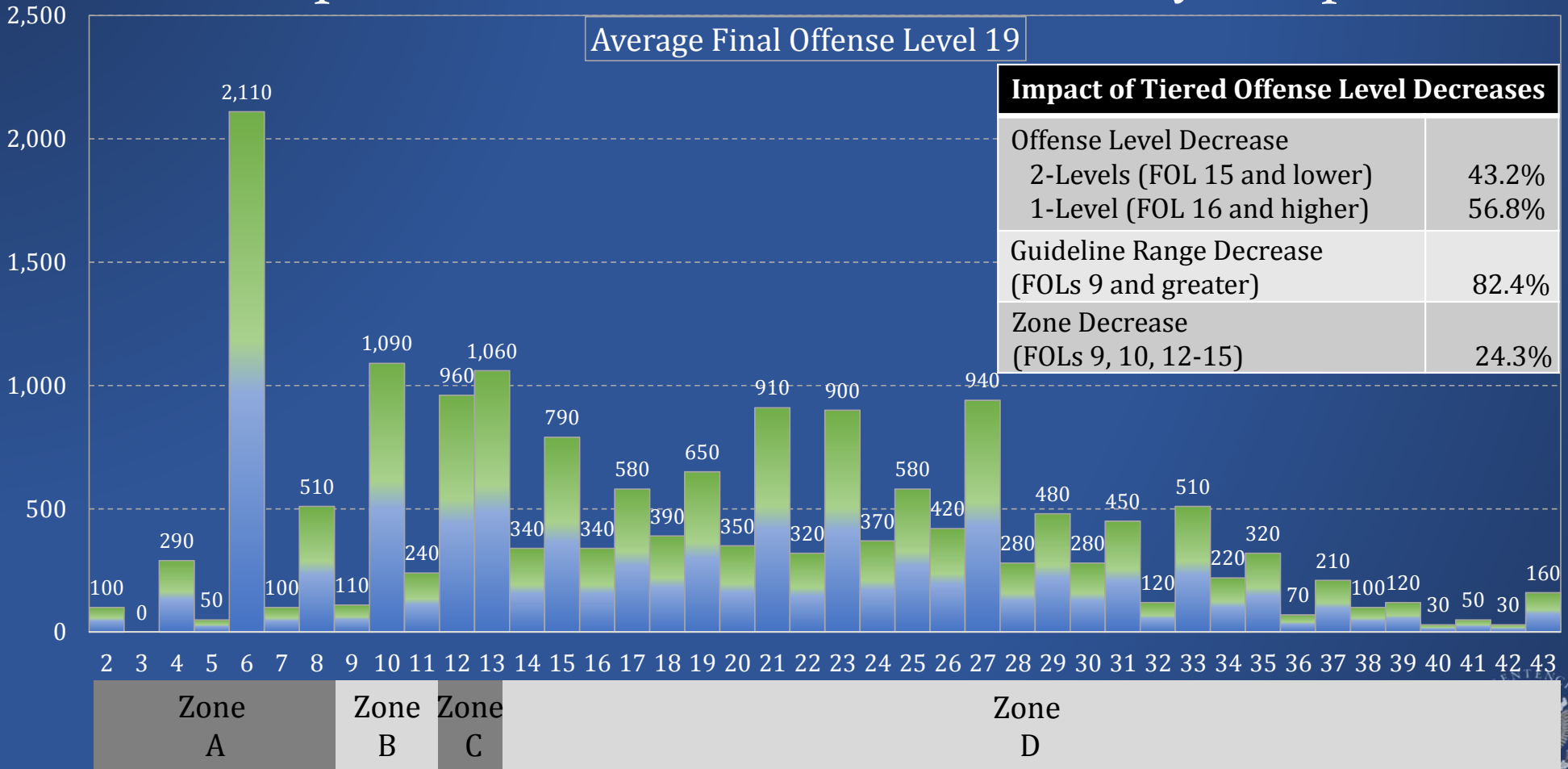
(b) If the defendant is determined to be a first offender under subsection (a), decrease the offense level as follows:

(1) if the offense level determined under Chapters Two and Three is less than level [16], decrease by [2] levels; or

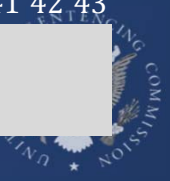
(2) if the offense level determined under Chapters Two and Three is level [16] or greater, decrease by [1] level.]



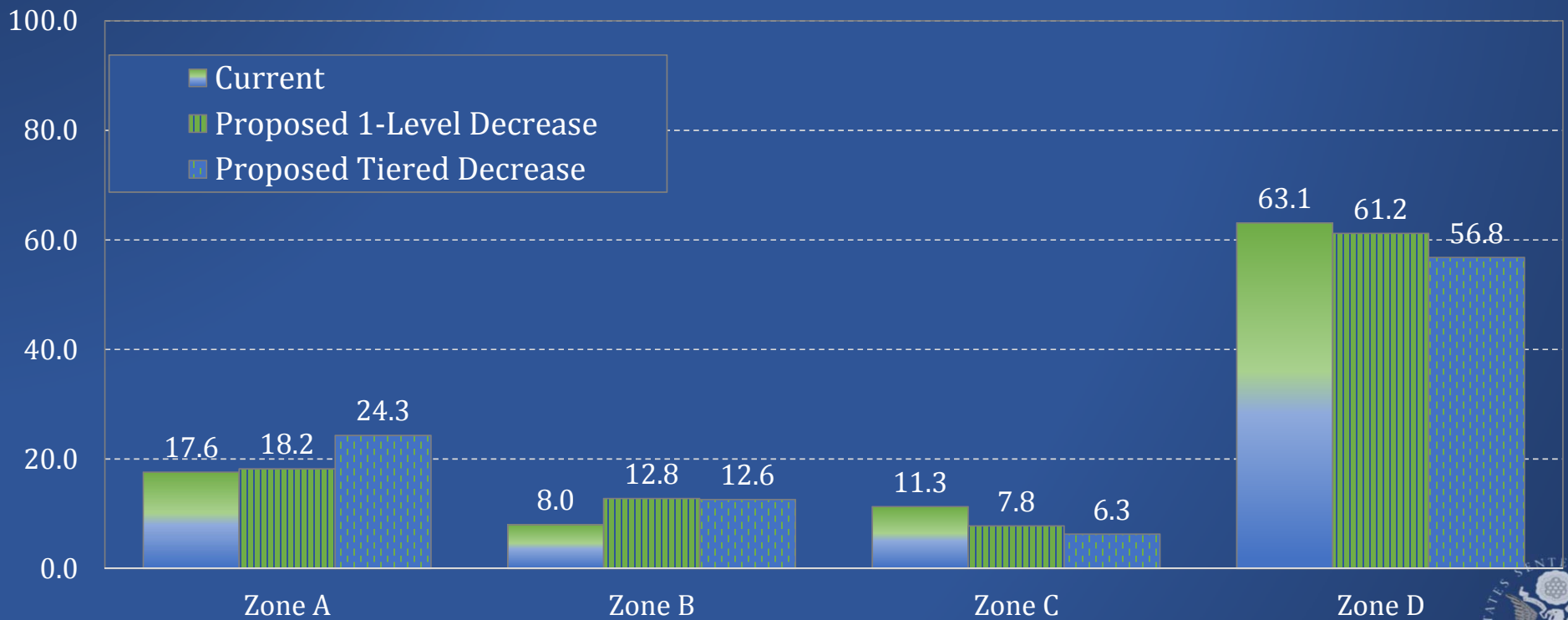
First Offenders in Each Final Offense Level Extrapolated from FY14 Criminal History Sample



SOURCE: U.S. Sentencing Commission 2014 Criminal History Extraction Datafile. The Criminal History Extraction Datafile consists of a stratified random sample of cases received by the Commission in fiscal year 2014 for which all sentencing documentation was available. Cases were sampled from each of the 94 federal judicial districts that year such that a ten percent sample was randomly selected for each district. Of the 6,764 cases in the sample, a total of 44 were excluded due to insufficient information in the documentation required for analysis. A total of 3,746 offenders were excluded who were in CHC II-VI. An additional 1,181 offenders were excluded who had one criminal history point or a prior conviction.



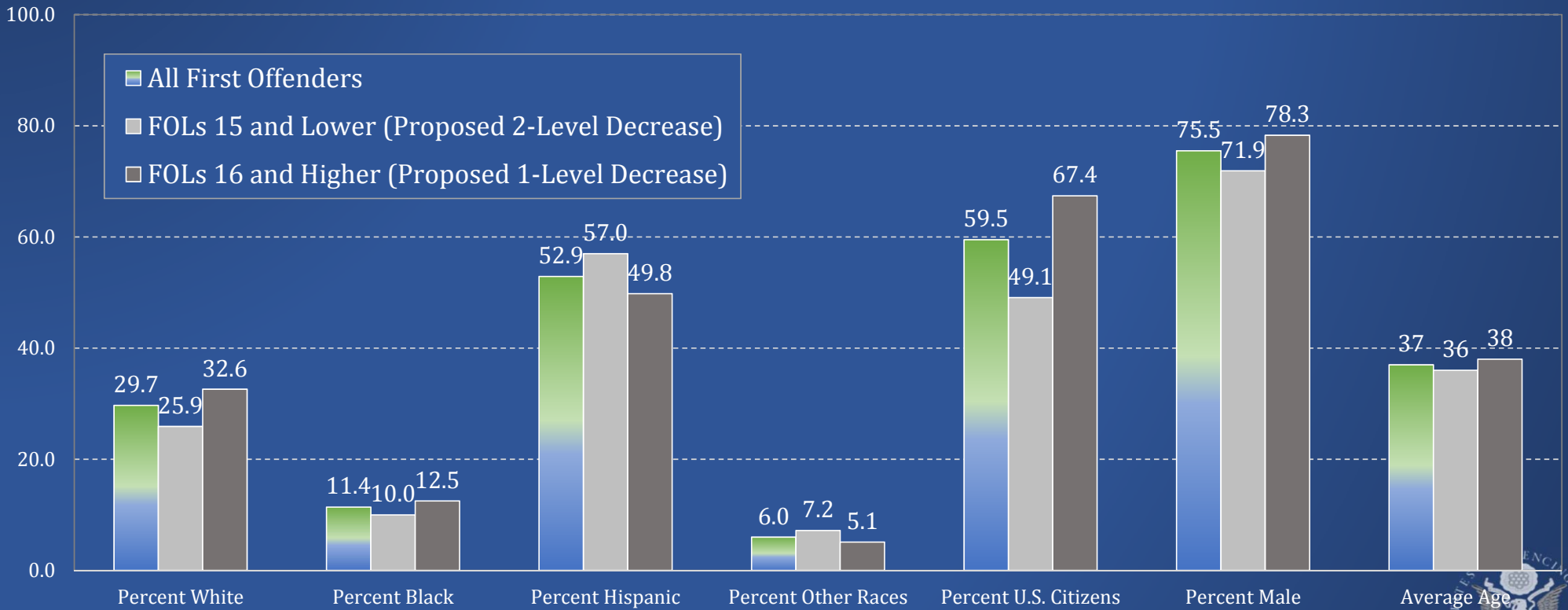
Comparison of Sentencing Table Zones for First Offenders Current, Proposed 1-Level, and Tiered Offense Level Decreases FY14 Criminal History Sample



SOURCE: U.S. Sentencing Commission 2014 Criminal History Extraction Datafile. The Criminal History Extraction Datafile consists of a stratified random sample of cases received by the Commission in fiscal year 2014 for which all sentencing documentation was available. Cases were sampled from each of the 94 federal judicial districts that year such that a ten percent sample was randomly selected for each district. Of the 6,764 cases in the sample, a total of 44 were excluded due to insufficient information in the documentation required for analysis. A total of 3,746 offenders were excluded who were in CHC II-VI. An additional 1,181 offenders were excluded who had one criminal history point or a prior conviction.



Demographic Information for First Offenders Impacted by Proposed Amendment FY14 Criminal History Sample



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Comparison of First Offenders Impacted by Proposed Amendment Ten Most Commonly Applied Chapter Two Guidelines Extrapolated from FY14 Criminal History Sample

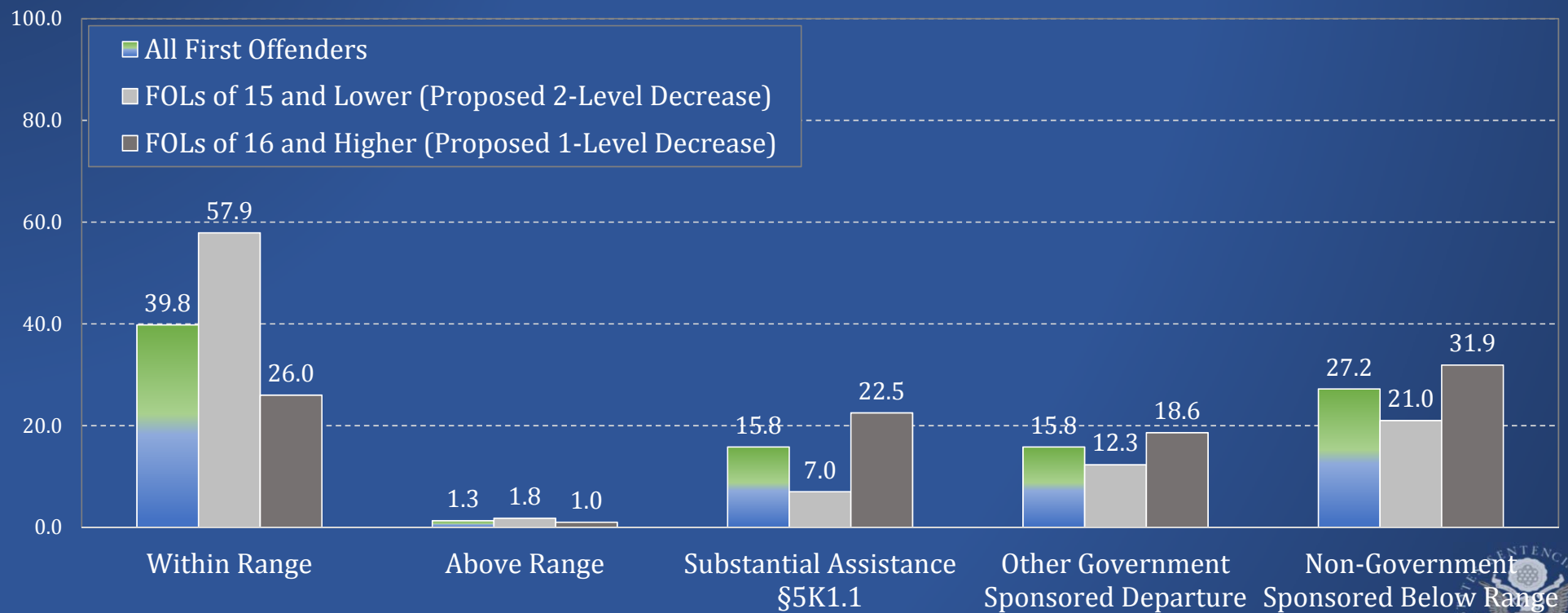
Final Offense Levels 15 and Lower (Proposed 2-Level Decrease)		
Primary Sentencing Guideline	Number	Percent
§2B1.1 Fraud/Theft	1,770	22.8
§2L1.2 Unlawful Entering	1,620	20.9
§2D1.1 Drug Trafficking	1,040	13.4
§2L1.1 Alien Smuggling	790	10.2
§2L2.2 Fraudulent Documents	690	8.9
§2K2.1 Firearms Possession	310	4.0
§2T1.1 Tax Evasion	200	2.6
§2L2.1 Trafficking Documents	130	1.7
§2S1.3 Monetary Transactions	130	1.7
§2J1.2 Obstruction of Justice	100	1.3
All Other	970	12.5

Final Offense Levels 16 and Higher (Proposed 1-Level Decrease)		
Primary Sentencing Guideline	Number	Percent
§2D1.1 Drug Trafficking	4,710	46.3
§2B1.1 Fraud/Theft	1,830	18.0
§2G2.2 Child Pornography Trafficking	940	9.2
§2S1.1 Money Laundering	520	5.1
§2B3.1 Robbery	300	3.0
§2L1.1 Alien Smuggling	240	2.4
§2C1.1 Bribery	190	1.9
§2G2.1 Sexually Exploiting Minor	190	1.9
§2K2.1 Firearms Possession	160	1.6
§2D1.2 Protected Location	120	1.2
All Other	980	9.6

SOURCE: U.S. Sentencing Commission 2014 Criminal History Extraction Datafile. The Criminal History Extraction Datafile consists of a stratified random sample of cases received by the Commission in fiscal year 2014 for which all sentencing documentation was available. Cases were sampled from each of the 94 federal judicial districts that year such that a ten percent sample was randomly selected for each district. Of the 6,764 cases in the sample, a total of 44 were excluded due to insufficient information in the documentation required for analysis. A total of 3,746 offenders were excluded who were in CHC II-VI. An additional 1,181 offenders were excluded who had one criminal history point or a prior conviction.



Comparison of First Offenders Impacted by Proposed Amendment¹⁶ Sentence Relative to the Guideline Range FY14 Criminal History Sample



SOURCE: U.S. Sentencing Commission 2014 Criminal History Extraction Datafile. The Criminal History Extraction Datafile consists of a stratified random sample of cases received by the Commission in fiscal year 2014 for which all sentencing documentation was available. Cases were sampled from each of the 94 federal judicial districts that year such that a ten percent sample was randomly selected for each district. Of the 6,764 cases in the sample, a total of 44 were excluded due to insufficient information in the documentation required for analysis. A total of 3,746 offenders were excluded who were in CHC II-VI. An additional 1,181 offenders were excluded who had one criminal history point or a prior conviction.





Recidivism of CHC I Offenders

Recidivism of CHC I Offenders Released in CY05

- Data from Commission's ongoing recidivism work
 - *Recidivism Among Federal Offenders: A Comprehensive Overview (March, 2016)*
 - 25,431 U.S. citizen offenders released from prison or sentenced to probation in calendar year 2005
 - Eight year follow-up period
 - Three measures of recidivism
 - Rearrest
 - Reconviction
 - Reincarceration



Comparison of CHC I Offender Categories FY14 Criminal History Sample and CY05 Release Cohort

FY14 Sample

One CH Point

- One criminal history point

Prior Conviction

- Zero criminal history points
- At least one prior conviction

Prior Contact

First Offenders

No Criminal History

CY05 Cohort

One CH Point

- One criminal history point

Prior Conviction/
Prior Contact

- Zero criminal history points
- At least one prior conviction and/or
- Law enforcement contact

No Criminal History

- Zero criminal history points
- No law enforcement contact



Recidivism Rates for Each CHC I Group CY05 Release Cohort

	No Criminal History	Prior Convictions/ Prior Contact	One Criminal History Point
REARREST			
Rearrest rate	25.7%	37.4%	46.9%
Time to rearrest	27 months	27 months	25 months
RECONVICTION			
Reconviction rate	14.7%	21.8%	28.8%
Time to rearrest	34 months	33 months	34 months
REINCARCERATION			
Reincarceration rate	4.1%	7.4%	9.5%
Time to rearrest	33 months	33 months	30 months



Recidivism Rates for Each CHC I Group with a Violent Instant Offense CY05 Release Cohort

	No Criminal History	Prior Convictions/ Prior Contact	One Criminal History Point
REARREST			
Rearrest rate	39.7%	52.2%	56.3%
Time to rearrest	21 months	15 months	16 months
RECONVICTION			
Reconviction rate	25.4%	33.3%	36.5%
Time to rearrest	30 months	25 months	24 months
REINCARCERATION			
Reincarceration rate	7.8%	11.5%	17.2%
Time to rearrest	30 months	25 months	23 months





Part B: Consolidation of Zones B and C in the Sentencing Table

Part B

Consolidation of Zones B and C in the Sentencing Table

- Expands Zone B by consolidating Zones B and C in the Sentencing Table
 - Expanded Zone B would include sentencing ranges with guideline minimums as low as one month and guideline maximums up to 18 months
 - Allow for existing Zone B sentencing options
- Offenders Sentenced in FY15



Current Confinement Options for Each Sentencing Table Zone

Zone	Confinement Ranges	Within Range Sentencing Options
Zone A	0-6 months	<ul style="list-style-type: none"> • Probation only • Probation with a confinement condition • Split sentence • Imprisonment
Zone B	From 1-7 to 9-15 months	<ul style="list-style-type: none"> • Probation substituted for confinement provided the term includes confinement conditions • Imprisonment - If imposed a minimum of one month must be imprisonment. Remainder of sentence may be imprisonment or a substitution of probation that includes home detention or community confinement.
Zone C	From 10-16 to 12-18 months	<ul style="list-style-type: none"> • Must include imprisonment term equivalent to at least half of the minimum of the applicable guideline range. Remainder of term requires supervised release with a condition of confinement. • Imprisonment
Zone D	From 15-21 months to life	<ul style="list-style-type: none"> • Imprisonment

Consolidation of Zones B and C

SENTENCING TABLE

(in months of imprisonment)

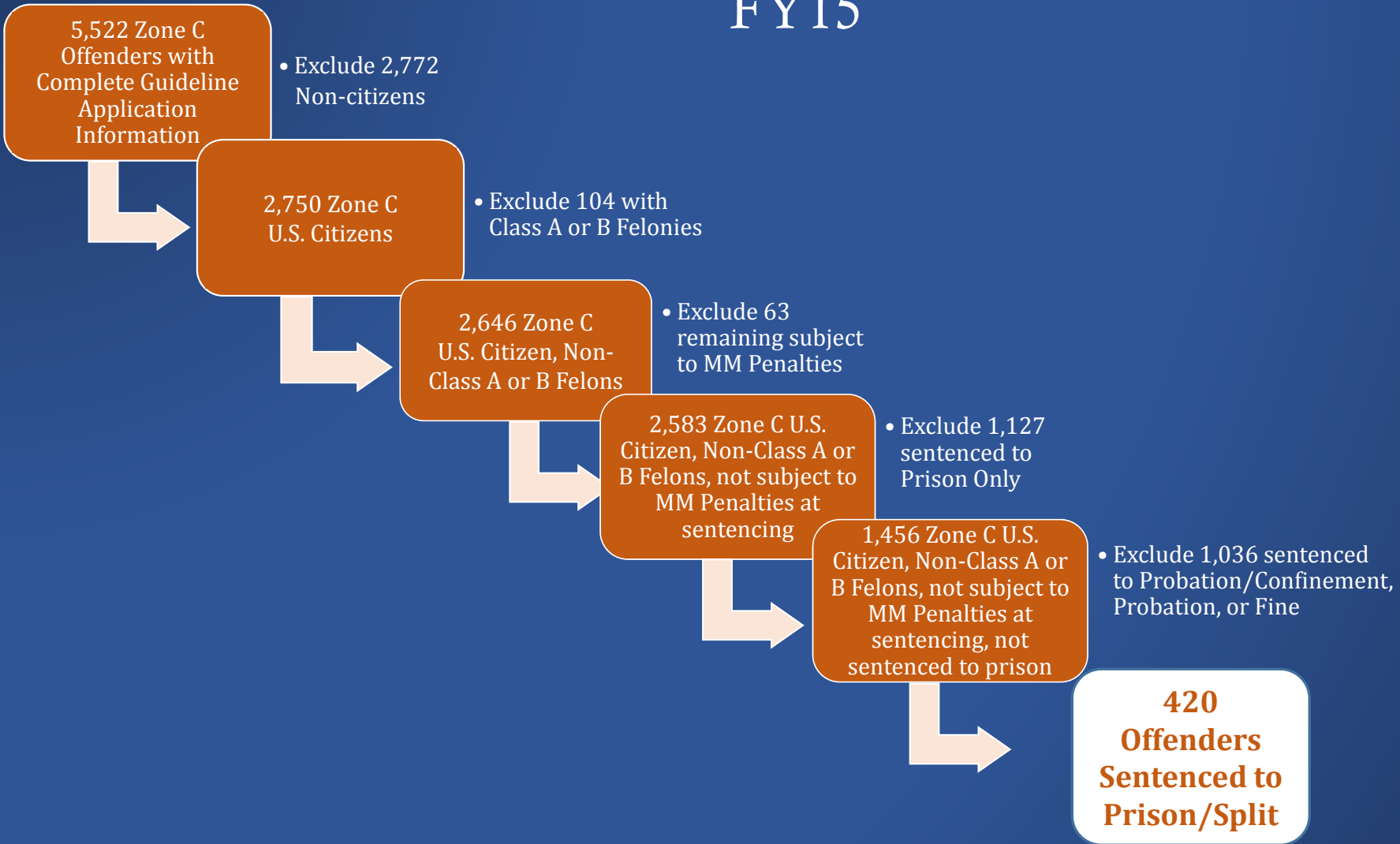
Criminal History Category (Criminal History Points)

		Offense Level	I (0 or 1)	II (2 or 3)	III (4, 5, 6)	IV (7, 8, 9)	V (10, 11, 12)	VI (13 or more)	
Current FY15 8.9%	Expanded 8.9%	Zone A	1	0-6	0-6	0-6	0-6	0-6	0-6
			2	0-6	0-6	0-6	0-6	0-6	1-7
			3	0-6	0-6	0-6	0-6	2-8	3-9
			4	0-6	0-6	0-6	2-8	4-10	6-12
			5	0-6	0-6	1-7	4-10	6-12	9-15
			6	0-6	1-7	2-8	6-12	9-15	12-18
			7	0-6	2-8	4-10	8-14	12-18	15-21
			8	0-6	4-10	6-12	10-16	15-21	18-24
10.4%	19.1%	Zone B	9	4-10	6-12	8-14	12-18	18-24	21-27
			10	6-12	8-14	10-16	15-21	21-27	24-30
			11	8-14	10-16	12-18	18-24	24-30	27-33
			12	10-16	12-18	15-21	21-27	27-33	30-37
			13	12-18	15-21	18-24	24-30	30-37	33-41
72.0%	72.0%	Zone D	14	15-21	18-24	21-27	27-33	33-41	37-46
			15	18-24	21-27	24-30	30-37	37-46	41-51
			16	21-27	24-30	27-33	33-41	41-51	46-57
			17	24-30	27-33	30-37	37-46	46-57	51-63
			18	27-33	30-37	33-41	41-51	51-63	57-71
			19	30-37	33-41	37-46	46-57	57-71	63-78
...		
43	life	life	life	life	life	life	life		

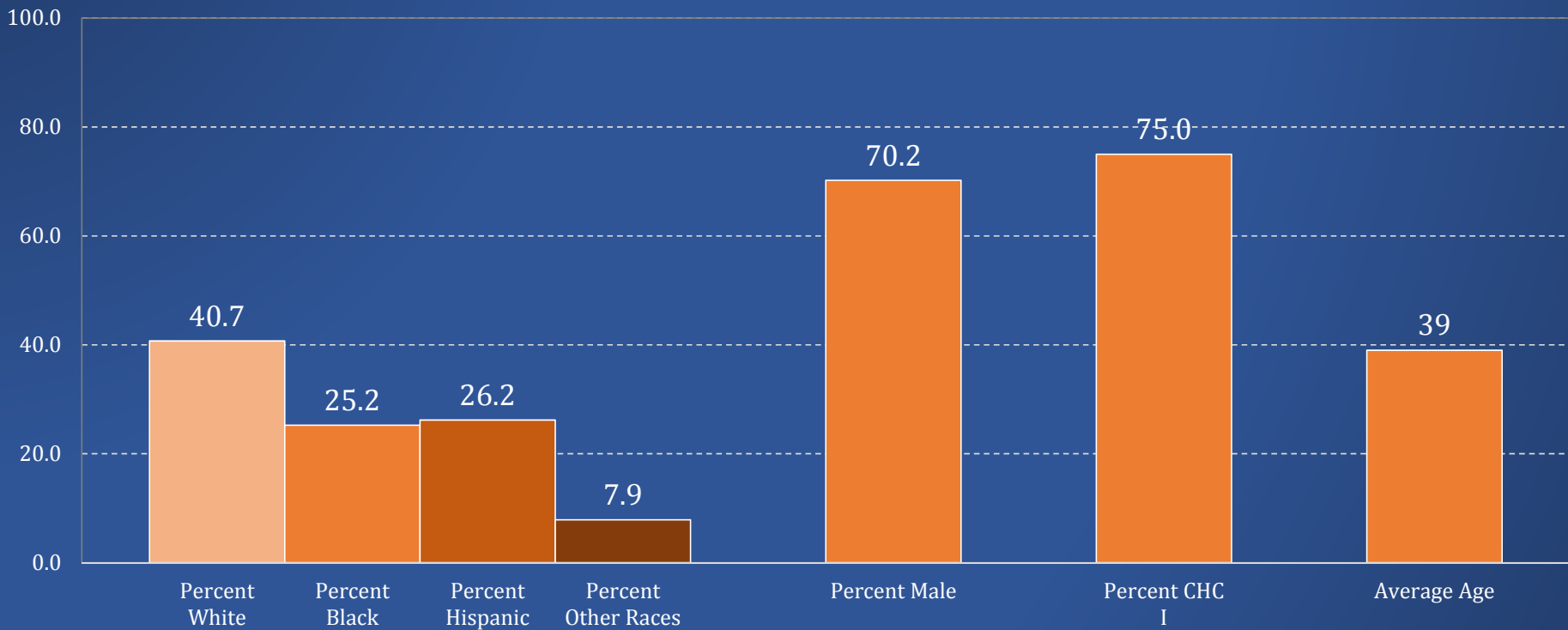


SOURCE: U.S. Sentencing Commission 2015 Datafile. Of the 71,003 offenders, a total of 7,543 were excluded due to incomplete guideline application information.

Zone C Offenders Likely to Benefit from Zone B Sentencing Options₂₆ FY15



Zone C Offenders Likely to Benefit from Zone B Sentencing Options, FY15



SOURCE: U.S. Sentencing Commission fiscal year 2015 datafile. USSCFY15. Of the 71,003 cases, a total of 7,543 were excluded due to incomplete guideline application information. Of the 63,460 remaining cases, 57,938 were excluded that were not in Zone C. Of the remaining 5,522 Zone C cases, 2,772 were excluded who were not U.S. citizens or missing citizenship, an additional 104 were excluded who had a class A or B felony, an additional 63 were excluded who were subject to a mandatory minimum at sentencing, and an additional 2,163 were excluded who were not sentenced to prison, probation with confinement, probation only, or a fine. The remaining 420 offenders were sentenced to a split sentence and likely would benefit from Zone B sentencing options. Cases missing information for a variable were excluded from the analysis for that variable.



Zone C Offenders Likely to Benefit from Zone B Sentencing Options Ten Most Commonly Applied Chapter Two Guidelines FY15

Primary Sentencing Guideline	Number	Percent
§2B1.1 Fraud/Theft	123	29.3
§2D1.1 Drug Trafficking	97	23.1
§2K2.1 Firearms Possession	47	11.2
§2L1.1 Alien Smuggling	35	8.3
§2T1.1 Tax Evasion	19	4.5
§2A3.5 Failure to Register as Sex Offender	15	3.6
§2B5.1 Counterfeiting	13	3.1
§2J1.2 Obstruction of Justice	10	2.4
§2E3.1 Gambling/Animal Fighting	8	1.9
§2A2.4 Obstructing or Impeding Officers	6	1.4
All Other	47	11.2

SOURCE: U.S. Sentencing Commission fiscal year 2015 datafile. USSCFY15. Of the 71,003 cases, a total of 7,543 were excluded due to incomplete guideline application information. Of the 63,460 remaining cases, 57,938 were excluded that were not in Zone C. Of the remaining 5,522 Zone C cases, 2,772 were excluded who were not U.S. citizens or missing citizenship, an additional 104 were excluded who had a class A or B felony, an additional 63 were excluded who were subject to a mandatory minimum at sentencing, and an additional 2,163 were excluded who were not sentenced to prison, probation with confinement, probation only, or a fine. The remaining 420 offenders were sentenced to a split sentence and likely would benefit from Zone B sentencing options. Cases missing information for a variable were excluded from the analysis for that variable.





Submit public comment to the Commission via electronic mail or regular mail
no later than February 20, 2017

Public_Comment@ussc.gov

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One Columbus Circle, N.E., Suite 2-500
Washington, D.C. 20002-8002
Attention: Public Affairs